

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

v.

KIRK RUSSEL MARSH,

Defendant.

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**Case No. 1:17CR122
Honorable Anthony J. Trenga**

DEFENDANT'S ADDENDUM TO POSITION ON SENTENCING FACTORS

COMES NOW the Defendant, Kirk Russel Marsh, by and through his attorneys, Beau Barnes and Elizabeth Mullin, and pursuant to 18 U.S.C. §3553(a)(1), respectfully requests this Court read the additional attached letter prior to the imposition of sentence in this case.

Respectfully submitted,

KIRK RUSSEL MARSH

By Counsel,

Jeremy C. Kamens,
Federal Public Defender

By:

/s/

Elizabeth A. Mullin
Virginia Bar No. 86668

Attorney for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2017, 2017, I will electronically file the foregoing with the Clerk of court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Kathy Wong, Esq.
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, VA 22314

Pursuant to the Electronic Case Filing Policies and Procedures, a courtesy copy of the forgoing pleading will be delivered to Chambers within one business day of the electronic filing.

/s/
Elizabeth A. Mullin
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Sunday, October 15, 2017

To the Honorable Anthony J. Trenga
United States Federal District Judge
U.S. District Court, Eastern District of Virginia

Dear Judge Trenga:

My name is John McAllister, and I am a general ophthalmologist practicing in northern Virginia. I take care of thousands of patients in our community in northern Virginia and in the course of my career and training have seen much of the full spectrum of humanity. I am writing this letter of my own initiative as a character witness of the guilty defendant, Mr. Kirk Russel Marsh (Russ). I have known Russ for about three and a half years, but I have known him well over that time. He has been one of three people who have been my closest friends over that period of time, and his wife Lauren is one of my wife's three closest friends in Virginia. I met him shortly after I moved back with my family to Fairfax County, as he attended the same LDS Church congregation we did. With overlapping ages of children, his family and my family quickly became close friends. Shortly after they bought their home and changed congregations, we bought a home and moved into their new congregation in part to raise our children around theirs. I consider myself a close friend of Russ's, and think that I have come to know him relatively well in a short number of years. I write this letter in support of Russ.

My writing this letter in no way indicates a viewpoint that his criminal actions were either excusable or defensible. From what I understand of his crimes, I believe his actions were reprehensible, and legal punishment must occur as mandated by the law. These punishments are critical in order to uphold the fabric of our society and to teach our children the clear consequences of breaking the law.

That being said, I speak in defense of Russ. In every perceivable way prior to the disclosure of his crimes, he was the kind of person I wanted to surround myself with. I was completely shocked by the news of his crimes. It was contrary to every quality that I have observed in him, and I want to describe these qualities to you to help you in your decision.

Russ is a loving husband. Prior to his being taken away from her, I have never seen him in any way demean, offend, or belittle his wife Lauren. In fact, they had an apparently fairytale marriage without conflict, strife, or other struggles before the FBI raid. She loved him unconditionally for the kind, gentle person that he has been to her for years of happy marriage. He spoke kindly and respectfully of her in conversations with me. In my presence, he consistently treated her with warmth and respect. He clearly cherishes her as an individual and respects her gifts, talents and hard work. I am sure that if he were able to fully see the scope of the impact this last few months have had on his wife alone, he would never have considered making his very first mistake or any other of his poor decisions along his path to federal prison. I

personally believe the repercussions of his actions on this single relationship alone will be the deepest and most enduring and severe punishment anyone could ever give Russ.

Russ is a loving father. He adores his children. He always carried a smile on his face when interacting with his children in front of me. He would halt his conversations with me to bend over and listen if one of his daughters had an interrupting question for him. He interacted lovingly with his children on a daily basis and lit up his home with his presence. He wouldn't raise his voice to correct his children, but would frequently chuckle as he helped them sort out issues. He showed individual love and concern for each one, taking time to make each one feel special. They know very well that their daddy loves them very much. He seemed, prior to the FBI raid, in every perceivable way to be the ideal father to his daughters. His daughters are struggling now to wrap their minds around the changes that have happened to their family. They still expect him to come home at some point. I believe they need him in their lives in whatever ways are possible or as soon as is legally possible to help them have as much stability and balance as they can going forward.

Russ is a loving part of his family – nuclear and extended. He has parents who love him and siblings who support him, all of whom must be suffering in different ways in the wake of his decisions. He has contributed positively to their lives for decades and his decisions must be a terrible blow to the family's core.

Russ is a good friend. He would listen actively to anyone he spoke with, including me. He carefully considered my comments and would show me insights he had gained that often expanded my understanding on some subject. I always enjoyed my conversations with Russ. They were thoughtful, engaging, and edifying. I typically walked away from our frequent conversations uplifted, more cheerful, and more introspective on whatever topic we discussed. He is a true optimist and this characteristic permeates his daily comportment (Although I do not know the facts of the case in full, I wonder if perhaps his optimistic gift may have turned into a weakness and contributed to his getting in over his head legally). He is intelligent, respectful, kind, courteous, funny, and positive. He was the kind of friend that I wished I had more time to spend with before the raid.

Russ was a good member of his community and church. He voluntarily served in many different capacities, expending several hours of his time on a regular basis to visit, serve, inspire, teach, help, and give to others in need. He donated generously of his means and time. He never gained a dime of compensation for all of his hours of service. I personally benefitted from his ministry in the church. Because of his humility, goodness, and selflessness, he was given trusted positions of leadership, including even most recently a significant leadership position in the whole region that very few members of our church ever are called to (he was a member of our Stake High Council, entrusted with overseeing the region's youth). He, of course, lost this position immediately upon discovery of his circumstances and behaviors (and I believe his very membership in the church is likely to be at stake due to his actions while serving as an ecclesiastical leader), but I highlight his service and recognition in the church to demonstrate

that, despite some horrible decisions and problems we were not privy to a knowledge of, most of his day to day character and comportment was good and honorable.

Perhaps most importantly, I believe Russ is a God-fearing person. I think he genuinely wants to be a good person. I am confident he currently dreads his own day of reckoning for his actions, perhaps more than the sentence which is pending.

Please, Your Honor, have mercy on him. Every day of his life he will regret the things he has done which have brought him before your bench for judgment. The sentence of federal prison is mandated by our laws, and is just recompense for his crimes, but in the details of the sentencing, where possible or reasonable, please have compassion on him and consider the tremendous punishment that he is already suffering and will still suffer. Remember his wife, and his beautiful children, his family. Remember his friends, who like me, stand ready to support him in his attempts to reform his life, and please be merciful where possible in the details of the sentence you pass.

Finally, Your Honor, it is my genuine hope that you may be blessed for your service in interpreting the laws of our country to the best of your ability. May you continually have excellent discernment and clarity of mind in fulfilling your duties in all your days of service ahead.

Sincerely,

John T. McAllister, M.D.
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